THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 29th September, 2006

W.P.No.3878 of 2002

Between:

M.C. Vanaja Lakshmi … Petitioner

and

The Revenue Divisional Officer,
Penukonda, Anantapur District … Respondent

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.3878 of 2002

ORAL ORDER:

Heard both sides.

It seems, in view of the vacancy caused for the fair price shop dealership of Malavoi village, Madakasira Mandal, Anantapur District, the petitioner was appointed as a permanent dealer for the said shop with effect from 14-8-1994 and continued as such till February,1995. In view of a Writ Petition being filed by the earlier dealer in W.P.No.14601 of 1994 and obtained interim orders from this Court, the petitioner's authorization was discontinued. However, she get herself impleaded in the said Writ Petition and the same was ultimately dismissed by an Order dated 16-10-2001. Thus, the petitioner was denied authorization from 1995 to 2001. After the dismissal of the said Writ Petition, instead of restoring the authorization of the petitioner, respondent has issued the impugned notification dated 11-2-2002 for filling up the vacancy of fair price shop dealer of Malavoi village on permanent basis. Aggrieved by the same, the present Writ Petition is filed.

While admitting the Writ Petition, an interim order was granted on 28-2-2002 not to finalize the appointment of fair price shop dealer of Malavoi village pending further orders. The said order is still subsisting.

It is the contention of the learned counsel for the petitioner that the authorization of the petitioner, which was granted on 14-8-1994 was neither cancelled nor suspended. As soon as the Writ Petition

filed by the earlier dealer was dismissed on 16-10-2001, the petitioner is entitled for restoration of original authorization granted in her favour on 14-8-1994. Instead of doing that, the respondent has ventured to issue a fresh notification for filling up the vacancy with *mala fide* intention.

Learned Government Pleader for Civil Supplies, however, strenuously contended that the petitioner was not doing the business for more than 5 years and no right is accrued for the petitioner to continue as fair price shop dealer or for restoration of authorization held by her even after the dismissal of the Writ Petition (W.P.No.14601 of 1994) on 16-10-2001.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the entire material made available on record.

So long as the authorization of the petitioner dated 14-8-1994 is not suspended or cancelled, the petitioner has every right for seeking restoration of her authorization, particularly being a party to the Writ Petition (W.P.No.14601 of 1994), which was dismissed on 16-10-2001. Therefore, I am of the opinion that the issuance of the fresh notification dated 11-2-2002, which is impugned in this Writ Petition, is arbitrary and illegal. As such, the same is liable to be set aside and is accordingly set aside. The respondents are directed to treat that the authorization of the petitioner has been restored automatically after the dismissal of the Writ Petition filed by the earlier dealer i.e. on 16-10-2001.

Accordingly, the Writ Petition is allowed. No order as to costs.

29-9-2006

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